

FILED
8:21am 3/19/09
MICHAEL K. JEANES, Clerk
By C. J. Miller
Deputy

TERRY GODDARD
The Attorney General
Firm No. 14000

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CERTIFIED COPY

ARIZONA SUPERIOR COURT
MARICOPA COUNTY

THE STATE OF ARIZONA ex rel. TERRY
GODDARD, the Attorney General, and THE
CIVIL RIGHTS DIVISION OF THE ARIZONA
DEPARTMENT OF LAW,

Plaintiff,

vs.

BUGGY INN, L.L.C. d/b/a GRAND
AVENUE TAVERN,

Defendant.

No. CV2008-010264

CONSENT DECREE

(Assigned to the Honorable
Jeanne Garcia)

On May 6, 2008, Plaintiff, the State of Arizona, through Attorney General Terry Goddard and the Civil Rights Division (collectively "the State"), filed a Complaint in Maricopa County Superior Court against Defendant Buggy Inn, L.L.C., d/b/a Grand Avenue Tavern

1 (“Defendant”), alleging discrimination based on disability, in violation of the Arizonans with
2 Disabilities Act, A.R.S. § 41-1492 *et seq* (“AzDA”).

3 The State and Defendant desire to resolve the issues raised by the Complaint without the
4 time, expense and uncertainty of further contested litigation. Defendant and the State expressly
5 acknowledge that this Decree is the compromise of disputed claims and that there was no
6 adjudication of any claim. Without admitting any liability for the claims made in the
7 Complaint filed in this matter, Defendant agrees to be bound by this Decree and not to contest
8 that it was validly entered into in any subsequent proceeding to implement or enforce its terms.
9 The parties therefore have consented to the entry of this Decree, waiving trial, findings of fact
10 and conclusions of law.

11 It appearing to the Court that entry of this Decree will further the objectives of the
12 AzDA, and that the Decree fully protects the parties and the public with respect to the matters
13 within the scope of this Decree.

14 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as
15 follows:

16 **JURISDICTION**

17 1. This Court has jurisdiction over the subject matter of this action and over the
18 parties hereto, and venue in Maricopa County is proper.

19 **RESOLUTION OF THE COMPLAINT**

20 2. This Decree resolves all issues and claims relating to acts and practices of alleged
21 discrimination, all of which Defendant denies. Compliance with this Decree shall be deemed to
22 be compliance with the AzDA.

23 **NO RETALIATION**

24 3. Defendant will not retaliate against Gary Frandino, or against any person in any
25 way for that person’s opposition to a practice made unlawful by the AzDA, or for their
26 participation in the State’s proceedings or litigation.

POLICY CHANGES

4. Should Defendant operate, manage, or have an ownership interest in a place of public accommodation as defined by A.R.S. §41-1491 in the State of Arizona within the next two (2) years from the date of the entry of the decree, Defendant shall enact, publish, and adhere to policies that prohibit discrimination in accordance with the AzDA and federal public accommodation laws.

5. Should Defendant operate, manage or have an ownership interest in a place of public accommodation as defined by A.R.S. §41-1491 in the State of Arizona within the next two (2) years from the date of the entry of the decree, then Defendant shall provide the State copies of Defendant's policies involving discrimination in places of public accommodations for the State's approval within thirty (30) days of its first day of operation.

6. In the event that Defendant does operate a business in the future as described in paragraphs 4 and 5 herein, the State shall review Defendant's policies to ensure that Defendant's policies comply with the AzDA. Within ninety (90) days after the State's approval of Defendant's policies, Defendant agrees to adopt and adhere to them.

TRAINING

7. Defendant agrees that within one hundred twenty (120) days from the date of the entry of the decree, Defendant shall report to the State in writing that Steven P. Miller and James W. Boyd have had a minimum of two (2) hours of training regarding their obligations under the AzDA and federal public accommodation laws. The report will include: (1) the date of the training; (2) the duration of the training; (3) the name and title of the person(s) who conducted the training; (4) a copy of the training outline or course content; and (5) a true copy of the attendance list which will show the name of each person who attended the training. The training shall include a review of the laws and regulations involving service animals, and will be conducted by professional staff and/or trained consultants knowledgeable in the subject matter and the requirements set forth in the above-mentioned state and federal laws.

1 **MONETARY RELIEF FOR COMPLAINANT**

2 8. Upon signing of this Decree, Defendant agrees to pay Gary Frandino the sum
3 certain of EIGHT THOUSAND DOLLARS (\$8,000.00) in full and final settlement of the
4 issues raised in the Complaint. Payment will be made by way of a cashier's check in the
5 amount of \$8,000.00 made payable to "Gary Frandino" as payee, and delivered to the State
6 within thirty (30) days of the effective date of this Decree.

7 **FEES AND COSTS**

8 9. The parties shall bear their respective attorneys' fees and costs incurred in this
9 action up to the date of entry of this Decree. In any action brought to assess or enforce
10 Defendant compliance with the terms of this Decree, the Court in its discretion may award
11 reasonable costs and attorneys' fees to the prevailing party.

12 **MISCELLANEOUS PROVISIONS**

13 10. This Decree shall be governed in all respects whether as to validity, construction,
14 capacity, performance or otherwise by the laws of the State of Arizona.

15 11. This Decree shall be binding on Defendant, their agents, employees, successors,
16 assigns and all persons in active concert or participation with Defendant.

17 **RELEASE**

18 12. Except for the obligations of Defendant that are expressly set forth in this Decree,
19 Defendant and its past, present, and future officers, shareholders, directors, managers,
20 members, employees, agents, partners, affiliates, insurers, parents, successors and assigns are
21 released, with prejudice, from any and all liability of any kind to the State for the issues and
22 claims raised or that could have been raised under the Arizona Civil Rights Act in the State's
23 Complaint in this matter.
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1 **NOTICE**

2 13. When this Decree requires the submission of reports, notices or other materials to
3 the State, they shall be mailed to: Christopher R. Houk, Assistant Attorney General, Office of
4 the Attorney General, 1275 W. Washington Street, Phoenix, Arizona 85007, or his successors.

5 14. In the event of any default or non-compliance, the State shall give written notice
6 to the Defendant with a thirty (30) day opportunity to cure. Notice to the Defendant shall be
7 mailed to:

8 Buggy Inn, LLC
9 11109 W. Boswell Blvd.
10 Sun City, AZ 85373

11 With a copy to:

12 Amy J. Gittler, Esq.
13 Jackson Lewis LLP
14 2390 E. Camelback Rd., Suite 305
 Phoenix, AZ 85016

15 **MODIFICATION**

16 15. There shall be no modification of this Decree without the written consent of
17 Defendant and the State and the further order of this Court. In the event of a material change
18 of circumstances, the parties agree to make a good faith effort to resolve this matter. If the
19 parties are unable to reach agreement, either party may ask the Court to make such
20 modifications as are appropriate.

21 **EFFECTUATING DECREE**

22 16. The parties agree to the entry of this Decree upon final approval by the Court.
23 The effective date of this Decree shall be the date that it is entered by the Court.

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1 ENTERED AND ORDERED this 12 day of March, 2009.
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4 Jeanne Garcia

5 Honorable Jeanne Garcia
6 Maricopa County Superior Court

7 The foregoing instrument is a full, true and correct copy of
8 the original document.

9 Attest March 19, 2009

10 MICHAEL K. JEANES, Clerk of the Superior Court of the
11 State of Arizona, in and for the County of Maricopa.

12 By C. J. Miller Deputy
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